

REMARKS

I. Formalities

Applicant thanks the Examiner for acknowledging the claim for priority under 35 U.S.C. § 119, and receipt of the certified copy of the priority document submitted on December 8, 2003.

Applicant also thanks the Examiner for indicating that the Formal Drawings filed on December 8, 2003 have been accepted.

Further, Applicant thanks the Examiner for considering the references submitted with the Information Disclosure Statements filed on December 8, 2003 and May 10, 2004, and for initialing and returning copies of the Forms PTO SB/08.

II. Status of the Application

Claims 1-7 are all the claims pending in the Application, with claim 1 being in independent form. Claims 1-7 have been rejected.

The present Response addresses each point of objection and rejection raised by the Examiner. Favorable reconsideration is respectfully requested.

III. Claim Rejections - 35 U.S.C. § 102

The Examiner has rejected claims 1-7 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,386,317 to Corle *et al.* (hereinafter "Corle"). Applicant respectfully traverses this rejection for *at least* the independent reasons stated below.

According to the MPEP, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art

reference.” (MPEP § 2131). Applicant respectfully submits that claims 1-7 positively recite limitations that are not disclosed (or suggested) by Corle.

For instance, independent claim 1 requires (among other things):

...at least one optical component which attenuates a useful light fraction with a first linear polarization state less strongly than a useful light fraction with a second linear polarization state different from the first linear polarization state...

The grounds of rejection allege that the retarder plate 117, as disclosed in Corle, corresponds to “at least one optical component,” as recited in claim 1. Applicant respectfully disagrees.

Corle does not disclose or suggest that the retarder plate 117 attenuates a useful light fraction with a first linear polarization state less strongly than a useful light fraction with a second linear polarization state different from the first linear polarization state, as recited in claim 1. To the contrary, Corle discloses that Figure 5, which illustrates the retarder plate 117, is an exploded cross-sectional view of a rotatably mounted retarder plate assembly employed in a preferred embodiment of the allegedly inventive microscope disclosed therein. (Column 6, lines 50-53). Further, Corle discloses that, according to the invention described therein, the retarder plates are always oriented optically downstream from a polarizer, which linearly polarizes the light passing through it (e.g., polarizer 7, pre-polarizer 58A and cube 57, etc.). (*See e.g.*, column 4, lines 27-33; column 5, lines 55-64; column 5, lines 14-19).

Therefore, as disclosed in Corle, all the light that enters the retarder plate 117 is linearly polarized. Thus, Corle discloses that the retarder plate 117 converts the linearly polarized

radiation from a polarizer, into elliptically polarized radiation and then directs this radiation onto a sample that is to be microscopically viewed. (*See e.g.*, column 4, lines 45-52; column 6, lines 32-42). Additionally, Corle discloses that the retarder plate 117 reconverts the elliptically polarized radiation that is reflected from the sample back into substantially linearly polarized radiation. (*See* column 6, lines 32-42).

However, Corle provides no disclosure or suggestion whatsoever that the retarder plate 117 attenuates a useful light fraction with a first linear polarization state less strongly than a useful light fraction with a second linear polarization state different from the first linear polarization state, as recited in claim 1. In fact, Corle is incapable of suggesting this feature since all of the incoming radiation entering the retarder plate 117 is already linearly polarized and, therefore, such radiation only has one linear polarization state. Consequently, as disclosed in Corle, the radiation entering the retarder plate 117 cannot possibly contain any fraction with a second linear polarization state that could be attenuated by the retarder plate 117, even if the retarder plate 117 were capable of performing such a specialized function (which Applicant firmly submits that the retarder plate 117 is not).

On the other hand, the retarder plate 117 reconverts the elliptically polarized radiation that is reflected from the sample back to the retarder plate 117, into substantially linearly polarized radiation by making use of the typical function of a quarter wave plate, which is to displace the phase of polarized light by 90°. (*See* column 6, lines 32-42). Therefore, even with respect to the radiation that is reflected back from the sample, the retarder plate 117 clearly does not attenuate a useful light fraction with a first linear polarization state less strongly than a useful

light fraction with a second linear polarization state different from the first linear polarization state, as required by claim 1.

Indeed, the grounds of rejection have not pointed to any specific portion of Corle that discloses or suggests that the retarder plate 117 is even capable of attenuating a useful light fraction with a first linear polarization state less strongly than a useful light fraction with a second linear polarization state different from the first linear polarization state, as recited in claim 1.

Independent claim 1 also recites:

...a compensation unit having a transmission plate which is introduced into the useful light beam path inclined to the plane perpendicular to the optical axis by a prescribed angle of inclination, and attenuates the useful light fraction with the first linear polarization state more strongly than the useful light fraction with the second linear polarization state...

The grounds of rejection allege that the second transmission plate 128, as disclosed in Corle, corresponds to "a transmission plate," as recited in claim 1. Applicant respectfully disagrees.

Corle fails to disclose or suggest that the transmission plate 128 attenuates a useful light fraction with a first linear polarization state more strongly than a useful light fraction with a second linear polarization state, as required by claim 1. In stark contrast, the only function of the transmission plate 128 that is disclosed in Corle is to eliminate a precession effect that is caused to the light beam by the rotational movement of the inclined retarder plate 117. (See column 6, lines 66-68). To achieve this function, Corle discloses that the transmission plate 128 is arranged

at an angle of inclination complementary to that of the retarder plate 117. (*See* column 6, lines 62-68).

For *at least* the above reasons, Applicant respectfully submits that independent claim 1 is not anticipated by (i.e. is not readable on) the applied Corle reference. Further, Applicant respectfully submits that the dependent claims 2-7 are allowable *at least* by virtue of their dependency on claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

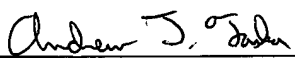
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